



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF Z-, INC.

DATE: MAR. 23, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an operator of an online real-estate and home-related marketplace, seeks to permanently employ the Beneficiary as a business intelligence developer. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant category. *See* Immigration and Nationality Act (the Act) § 203(b)(2), 8 U.S.C. § 1153(b)(2). This classification allows a U.S. employer to sponsor a professional with an advanced degree.

The Director, Nebraska Service Center, denied the petition on July 9, 2015. The Director concluded that the accompanying labor certification did not demonstrate the job opportunity's requirement for an advanced degree professional.

The matter is now before us on appeal. The Petitioner argues that the Director erred in interpreting the job requirements stated on the accompanying ETA Form 9089, Application for Permanent Employment Certification (labor certification), approved by the U.S. Department of Labor (DOL). Upon *de novo* review, the appeal will be sustained.

In interpreting the ETA Form 9089 in its entirety, including the clear language of Part H.14, which is supported by copies of the Petitioner's recruitment materials that verify the Petitioner advertised with the same advanced degree education and experience requirements as stated on the ETA Form 9089, we find that the accompanying labor certification states requirements for a position requiring an advanced degree professional.

The record demonstrates the job opportunity's need for an advanced degree professional. We will therefore withdraw the Director's decision and sustain the appeal. The record also establishes the Beneficiary's qualifications for the requested classification and the Petitioner's ability to pay the proffered wage. We will therefore approve the petition, and sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of Z-, Inc.*, ID# 15961 (AAO Mar. 23, 2016)